STATUTORY INSTRUMENTS

2018 No. 311

ENVIRONMENTAL PROTECTION PETROLEUM

The Oil and Gas Authority (Levy) and Pollution Prevention and Control (Fees) (Amendment) Regulations 2018

Made - - - -	*6th March 2018*
Laid before Parliament	*9th March 2018*
Coming into force - -	*1st April 2018*

The Secretary of State, in exercise of the powers conferred by sections 13(1) to (4) and 14(1) and (3) to (9) of the Energy Act 2016(**1**), section 82OA(2) of the Energy Act 2008(**2**) and section 56(1) and (2) of the Finance Act 1973(**3**), makes the following Regulations.

The Secretary of State has consulted the Oil and Gas Authority in accordance with section 13(8) of the Energy Act 2016.

The Secretary of State has obtained the consent of the Treasury in accordance with section 56(1) of the Finance Act 1973.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Oil and Gas Authority (Levy) and Pollution Prevention and Control (Fees) (Amendment) Regulations 2018 and come into force on 1st April 2018.

(**1**) 2016 c.20.
(**2**) 2008 c.32. Section 82OA is inserted by the Energy Act 2016.
(**3**) 1973 c.51. Section 56 is amended by S.I. 2011/1043.

PART 2

The Oil and Gas Authority Levy

Interpretation

2. In this Part—

"leviable costs" means the sum of the costs incurred by the OGA(**4**) and the Lord Chancellor in exercising the functions referred to in section 13(2)(a) of the Energy Act 2016 excluding any costs incurred in the exercise of functions referred to in section 13(2)(b) of that Act;

"licensee" means a person holding a petroleum licence;

"non-production levy" means the licensing levy payable by a licensee for the relevant charging period to which regulation 4 applies;

"offshore exploration licence" means a petroleum licence of the sort referred to in regulation 2(2)(a) of the Offshore Exploration (Petroleum, and Gas Storage and Unloading) (Model Clauses) Regulations 2009(**5**), relating to an area any part of which lies within offshore waters;

"offshore production licence" means a petroleum licence relating to an area any part of which lies within offshore waters which is not an offshore exploration licence;

"offshore waters" means—

(a) the waters comprising the territorial sea of the United Kingdom, and

(b) the sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964(**6**);

"production levy" means the licensing levy payable by a licensee for the relevant charging period to which regulation 3 applies;

"petroleum licence" means a licence granted under—

(a) section 2 of the Petroleum (Production) Act 1934(**7**) (licences to search for and get petroleum); or

(b) section 3 of the Petroleum Act 1998(**8**) (licences to search for and bore for and get petroleum),

which is not an excluded licence(**9**) in relation to the relevant charging period;

"relevant charging period" means the period beginning on 1st April 2018 and ending on 31st March 2019; and

"relevant time" means 12.01a.m. on 1st April 2018.

Liability to pay production levy

3.—(1) This regulation applies to a licensee who at the relevant time—

(a) holds an offshore production licence; and

(b) in accordance with that licence, is entitled to—

(**4**) "OGA" is defined in section 1(4) of the Energy Act 2016 as the Oil and Gas Authority.
(**5**) S.I. 2009/2814; this instrument is amended by S.I. 2016/912 and S.I. 2016/992.
(**6**) 1964 c.29; section 1(7) is amended by the Oil and Gas (Enterprise) Act 1982 (c.23) section 37, schedule 3, paragraph 1.
(**7**) 1934 c.36; this Act is repealed by the Petroleum Act 1998 (c.17), section 51 and Schedule 5, subject to the savings provisions set out in Schedule 3.
(**8**) 1998 c.17; section 3 is amended by the Scotland Act 2016 section 48(1) to (4) and by S.I. 2016/898.
(**9**) "Excluded licence" is defined by section 13(10) of the Energy Act 2016.

(i) erect or carry out any relevant works (within the meaning of the licence) either in the licensed area or elsewhere, for the purpose of getting petroleum from that area or for the purpose of conveying to a place on land petroleum got from that area, or

(ii) get petroleum from that area otherwise than in the course of searching for petroleum, drilling wells or testing wells.

(2) Where this regulation applies, the licensee is liable to pay the production levy in respect of each offshore production licence held by the licensee to which the criteria in paragraph (1)(b) applies.

(3) Where the licensee is more than one person, the liability under paragraph (2) is joint and several.

Liability to pay non-production levy

4.—(1) This regulation applies to a licensee who at the relevant time holds either—

(a) an offshore exploration licence; or

(b) an offshore production licence where regulation 3(1)(b) does not apply.

(2) Subject to paragraph (3), where paragraph (1) applies, the licensee is liable to pay the non-production levy in respect of each licence to which the criteria in paragraph (1)(a) or (b) applies, held by the licensee.

(3) Paragraph (2) does not apply where at the relevant time a licensee is a micro-enterprise and—

(a) holds an innovate licence in phase B of its initial term; or

(b) holds—

(i) a promote licence in its promote period; or

(ii) an innovate licence in phase A of its initial term.

(4) A licensee to whom the criteria referred to in paragraph (3)(a) apply is liable to pay the non-production levy discounted by 80 per cent in respect of that licence.

(5) A licensee to whom the criteria referred to in paragraph (3)(b) apply is liable to pay the non-production levy discounted by 90 per cent in respect of that licence.

(6) Where the licensee is more than one person—

(a) the liability under this regulation is joint and several, and

(b) the licensee is only a micro-enterprise for the purposes of paragraph (3) if every person who is the licensee is a micro-enterprise.

(7) In this regulation—

"innovate licence" means an offshore production licence in which, in accordance with the model clauses, the initial term of the licence (within the meaning of the licence) is divided into phases;

"micro-enterprise" has the meaning given in article 2(3) of the Annex to Commission Recommendation 2003/361/EC of 6th May 2003 concerning the definition of micro, small and medium-sized enterprises(**10**);

"model clauses" means model clauses prescribed by the Petroleum Licensing (Production) (Seawards Areas) Regulations 2008(**11**);

"promote licence" means an offshore production licence in which, in accordance with the terms of the licence—

(a) a "Promote Period" is specified, and

(**10**) OJ L 124, 20.5.2003, p36.
(**11**) S.I. 2008/225. This instrument is amended by S.I. 2009/3283; S.I. 2016/912, S.I. 2017/426 and S.I. 2017/855.

(b) a clause is included concerning the effect of the expiry of the Promote Period in relation to the continuation of that licence beyond that period.

Calculation of production levy and non-production levy

5.—(1) For the purposes of regulation 3, the OGA must calculate the production levy in accordance with the formula—

$$\frac{C \times 0.89}{P}$$

(2) For the purposes of regulation 4, the OGA must calculate the non-production levy in accordance with the formula—

$$\frac{C \times 0.11}{\mathrm{N100} + (\mathrm{N90} \times 0.1) + (\mathrm{N80} \times 0.2)}$$

(3) In this regulation—

"C" is £22,750,000, which are the leviable costs for the relevant charging period;

"N100" is the total number of licences for which a licensee is liable to pay the non-production levy under regulation 4(2);

"N90" is the total number of licences for which a licensee is liable to pay the non-production levy under regulation 4(5);

"N80" is the total number of licences for which a licensee is liable to pay the non-production levy under regulation 4(4); and

"P" is the total number of offshore production licences for which a licensee is liable to pay the production levy under regulation 3(2).

Payment of the levy

6. Where a licensee is liable to pay a levy to the OGA in accordance with these regulations, the OGA must notify the licensee in writing by 31st May 2018 as to—

(a) whether the licensee is liable for the production levy or the non-production levy;

(b) the amount so payable;

(c) the date by which that amount is to be paid, being a date not less than 30 days after the date of the notification; and

(d) details of how the payment can be made.

Interest payable on late payment of the levy

7.—(1) Where any amount of a levy notified to a licensee is not paid in accordance with the notification under regulation 6, the licensee is liable to pay to the OGA interest calculated in accordance with paragraph (2) on the amount of the levy which remains unpaid.

(2) The interest payable under paragraph (1) is simple interest calculated from day to day on the unpaid amount from the date by the amount is required until the date when payment is made, at a rate of five per cent over the Bank of England base rate from time to time.

(3) For the purpose of this regulation, the "Bank of England base rate" means—